



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/728,336

12/04/2003

Stephen M. Stanton

CE11662JME

7398

24273

7590

10/12/2005

MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL, FL 33322

EXAMINER

ZARROLI, MICHAEL C

ART UNIT

PAPER NUMBER

2839

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,336

Applicant(s)

STANTON ET AL.

Examiner

Michael C. Zarroli

Art Unit

2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7, 9, 10 and 12-21 is/are rejected.
- 7) ☒ Claim(s) 8 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flap disposed 90 degrees to the attachment legs when in the closed position must be shown or the feature(s) canceled from the claim 8. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR

1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7, 10, 14, 16-17 and, 18-20 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gilpin et al.

Gilpin discloses an accessory cover (10) for a communications device (14) comprising: a flap (30); and at least one attachment leg (34), each leg having a proximal end and a distal end (unnumbered fig. 3), the proximal end of each leg being flexibly (hinge) connected to the flap (at 84), the distal end of each leg being adapted for connection to the communication device (94), at least a portion of the attachment leg being bendable (fig. 4), wherein the flap is movable between at least a closed position (fig. 2) and an open position (fig. 1), wherein the flap remains in the open position fig. 1 irrespective of the positioning of the accessory

cover or the communications device (flap would remain open no matter how the scanning device is turned).

Regarding claim 10 Gilpin discloses that the cover provides a tactile signal or audible signal when the cover is moved between the closed and open positions (fig. 4 vibration or sound when movement occurs).

Regarding claim 14 Gilpin discloses that the flap is substantially rectangular (fig. 3).

Regarding claim 16 Gilpin discloses that in the open position, the flap is disposed substantially in the same plane relative to the attachment leg (fig. 3).

Regarding claim 17 Gilpin discloses that the distal end of the at least one attachment leg includes one or more protrusions (fig. 6 near 94), whereby the protrusions are lockingly received in a corresponding passage on the communication device (col. 5 lines 4+).

Regarding claims 18 and 19 Gilpin discloses that at least one projection (fig. 3 at 60, 62 & 76) extends substantially transversely from the flap, the at least one projection shaped to interface with and substantially surroundingly receive (figures 1 to 2) a connector (18, 16).

Regarding claim 20 Gilpin discloses that the flap includes at least one edge portion, the edge portion including at least one protrusion (112), wherein the at

least one protrusion lockingly engages a portion of the communication device
(120) so as to retain the communication device in the closed position (fig. 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpin et al as applied to claim 7 above, and further in view of Imai et al.

Gilpin does not disclose two parallel attachment legs.

Imai discloses two attachment legs (6) in parallel (fig. 2).

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the attachment leg of Gilpin from one large leg to two parallel legs as taught by Imai. The motivation for this change would be to save on material costs and weight of the device.

6. Claims 12 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpin et al as applied to claim 7 above, and further in view of Imai et al.

Gilpin does not disclose that the attachment leg is comprised of two legs or that the flap is substantially flat.

Imai discloses (fig. 4) two substantially parallel attachment legs (6) connected to a flap (3) that is substantially flat.

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the attachment leg and flap structure of Gilpin as taught by Imai. The motivation for this change would be to save space.

7. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpin et al as applied to claim 7 above.

Gilpin discloses that the attachment leg has protrusions **not slots**; and that these protrusions connect with slots of the communication device.

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify Gilpin so that the attachment legs have the slots (not protrusions) and that the communication device has the protrusions (no the slots).

The reversal of parts is well settled in the art In re Gazda, 219 F. 2d 449, 452, 104 USPQ 400, 402 (CCPA 1955). The motivation for this reversal of parts would be to reduce the profile of the cover device.

8. Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpin et al as applied to claim 7 above.

Gilpin discloses that the flap has at least one protrusion that lockingly engages a portion of the communication device **not that** the communication device has the protrusion that engages a notch of the flap.

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify Gilpin so that the flap has the notches (not protrusions) and that the communication device has the protrusions (no the notches). The reversal of parts is well settled in the art In re Gazda, 219 F. 2d 449, 452, 104 USPQ 400, 402 (CCPA 1955). The motivation for this reversal of parts would be to reduce the profile of the cover device.

Response to Arguments

9. Applicant's arguments filed 8/31/05 have been fully considered but they are not persuasive, except for claim 8.

The flap of Gilpin cannot go to the **closed position** in figure 2 unless someone performs a specific operation. The flap must be pushed in before it goes to the closed position. See Gilpin column 2 lines 7-15. No matter how the device of Gilpin is turned the flap will not go to the closed position in figure 2. Therefore the flap of Gilpin is movable between a closed position and open position no matter how the device is manipulated.

Allowable Subject Matter

10. Claims 8 and 11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: Reasons for allowance of claim 11 was given in the previous office action. Regarding claim 8 the prior art of record does not teach or suggest alone or in combination, the combination of elements including when in the closed position the flap is 90 degrees relative to the legs.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the

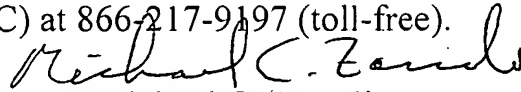
advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of EP0352347 and Ustin et al discusses some claim elements except for attachment legs.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Zarroli whose telephone number is 571-272-2101. The examiner can normally be reached on 7:30 to 3:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, T.C. Patel can be reached on (571) 272-2800 ext 39. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael C. Zarroli
Primary Examiner
Art Unit 2839

MCZ
MCZ